

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID POWELL,

Plaintiff,

v.

GREENTREE,

Defendant.

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)
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)
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)
)
)
)

07CV6503
JUDGE MANNING
MAG. JUDGE KEYS

FILED
J.N
NOV 16 2007
14
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF REMOVAL

Defendants, Green Tree Servicing LLC (hereinafter, "Defendant"), in the matter of Powell v. Greentree, originally pending in the Sixth Municipal District, Circuit Court of Cook County, Illinois ("the Lawsuit"), hereby gives Notice of Removal of said cause to the United States District Court for the Northern District of Illinois. In support of its Notice of Removal, Defendant states as follows:

1. Plaintiff, David Powell ("Plaintiff"), commenced the Lawsuit against Defendant in the Circuit Court of Cook County, Illinois. While Plaintiff's *pro se* Complaint is not a model of clarity, Plaintiff cites to the Fair Credit Reporting Act, 15 U.S.C.A. §1681s-2 ("FCRA"), and is presumably asserting a claim under FCRA, as well as state law claims for breach of contract and negligent misrepresentation.

2. The United States District Court for the Northern District of Illinois has original jurisdiction under 28 U.S.C. § 1331 over Plaintiff's FCRA claim asserted in the Lawsuit because Plaintiff's FCRA claim arises under the laws of the United States, and over Plaintiff's state law claims pursuant to the principle of pendent jurisdiction.

3. The action was filed on October 31, 2007 and Defendant received a copy of Plaintiff's Complaint on or about November 7, 2007. Pursuant to 28 U.S.C. §1446(b), this Notice of Removal is timely filed in this Court within thirty days after receipt of the Complaint. No other parties have been named as defendants in this matter


4. Written notice of the filing of this Notice of Removal will be given to all adverse parties (i.e., Plaintiff) as required by law.

5. A true and correct copy of this Notice will be filed with the Clerk of the Circuit Court of Cook County, Illinois, as required by law.

6. Defendants file herewith and incorporate by reference a true and correct copy of all process, pleadings and orders served upon Defendant in the Lawsuit, attached hereto.

WHEREFORE, defendant, Green Tree Servicing LLC, respectfully prays that this notice effect the removal of this action from the Sixth Municipal District, Circuit Court of Cook County, Illinois to this Court.

Respectfully submitted,



One of the attorneys for defendant, Green
Tree Servicing LLC

James D. Adducci
Marshall L. Blankenship
Adducci, Dorf, Lehner, Mitchell
& Blankenship, P.C.
150 North Michigan Avenue, Suite 2130
Chicago, Illinois 60601
312/781-2800

2120 - Served 2220 - Not Served 2620 - Sec. of State

2121 - Alias Served 2221 - Alias Not Served 2621 - Alias Sec. of State

(This form replaces CCM 0646, CCM1 0646, CCM1 0651, CCM1 0646, and CCM1 0646-2 THRU 6)

CCM N649-15004-1/21/04 (3330002)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

6th MUNICIPAL DISTRICT

Name All Parties

MR. DAVID POWELL

Plaintiff(s)

GREENTREE

360 LANDMARK TOWERS

Defendant(s)

360 ST. PIER ST.

ST. PAUL, MINN 55102

Address of Defendant(s)

Case No.:

Amount Claimed \$:

Return Date:

Status Date:

Trial Date:

Time:

Room:

SUMMONS

To each Defendant:

YOU ARE SUMMONED and required:

1. To file your written appearance by yourself or your attorney and pay the required fee in:

☐ District 1: Richard J. Daley Center; 50 West Washington, Room 602; Chicago IL 60602☐ District 2: 5600 Old Orchard Rd., Rm 136; Skokie, IL 60077☐ District 4: 1500 Maybrook Dr., Rm 236; Maywood, IL 60153☒ District 6: 16501 S. Kedzie Pkwy., Rm 119; Markham, IL 60426☐ District 3: 2121 Euclid, Rm 121; Rolling Meadows, IL 60008☐ District 5: 10220 S. 76th Ave., Rm 121; Bridgeview, IL 60455on 07 before 9:00 a.m.

2. File your answer to the complaint before 9:00 a.m. as required by the applicable subsections of Paragraph 3 or 4 in the NOTICE TO THE DEFENDANT on the reverse side.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS HERETO ATTACHED.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service, and not less than 3 days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

This summons may not be served later than 3 days before the day for appearance.

THERE WILL BE A FEE TO FILE YOUR APPEARANCE. SEE FEES ON THE REVERSE SIDE OF THIS FORM.

DOROTHY BROWN OCT 31 2007

Atty. No.:

Name:

Atty. for:

Address:

City/State/Zip:

Telephone:

WITNESS

DOROTHY BROWN, Clerk of the Court

Date of Service

(To be inserted by officer on copy left with summons or other person)

SEE REVERSE SIDE

** Service by Facsimile Transmission will be accepted at:

(Area Code)

(Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

APPEARANCE FEES INCLUDE A COUNTY LAW LIBRARY FEE OF \$10.00, THE COURT AUTOMATION FEE OF \$5.00, A DOCUMENT STORAGE FEE OF \$5.00 AND THE MANDATORY ARBITRATION FEE OF \$10.00 WHERE APPLICABLE.

APPEARANCE FEES (BASED ON AMOUNT OF CLAIM)

(ALL CASES; NO DISPUTE RESOLUTION CHARGED)

FORCIBLE DETAINER (POSSESSION ONLY)	\$110.00
\$1,500.00 OR LESS	\$110.00
\$1,500.00 TO \$15,000.00	\$120.00
MORE THAN \$15,000.00	\$140.00

JURY FEES ARE AS FOLLOWS:

CLAIMS FOR DAMAGES NOT IN EXCESS OF \$5,000.00

*SIX-PERSON \$12.50

*TWELVE-PERSON JURY \$25.00 or

\$12.50 if another party paid for a jury of six

CLAIMS FOR DAMAGES NOT IN EXCESS OF \$15,000.00

*SIX-PERSON \$115.00

*TWELVE-PERSON JURY \$230.00 or

\$115.00 if another party paid for a jury of six

CLAIMS FOR DAMAGES IN EXCESS OF \$15,000.00

*TWELVE-PERSON JURY \$230.00

*THESE FEES MAY BE WAIVED BY APPROPRIATE COURT ORDER. YOU HAVE THE RIGHT TO FILE A PETITION SEEKING SUCH AN ORDER.

NOTICE TO PLAINTIFF

You **MUST** select a Return Day of:

Not less than 14 or more than 40 days after issuance of summons if amount claimed is \$5000 or less;

not less than 21 or more than 40 days after issuance of summons if amount claimed is in excess of \$5000.

NOTICE TO DEFENDANT

- * 1. This case may/may not be heard on the day for appearance specified in the summons.
2. If the complaint is notarized, your answer must be notarized.
3. On the specified Return Day, one of the following may occur:
 - a. If you are sued for \$5000 or less, you need not file an answer unless ordered to do so by the court.
 - (1) If Plaintiff is not present, the case may be dismissed for want of prosecution.
 - (2) If you have not filed an appearance, or you have filed an appearance and are not present, the Plaintiff may obtain an ex parte default judgment against you for the amount claimed.
 - (3) If you have filed an appearance and are present on Return Day, trial may be held that day, or may be set for another day certain.
 - b. If you are sued for more than \$5000, and if you have filed your appearance on time, you must file your answer not later than 10 days after the day for appearance specified above. If you filed your written appearance on or before Return Day, your case will be postponed 21 days to the Default-for-Want-of-Answer Call at 9:00 a.m. If you have filed your answer on time, you need not appear for the Default-for-Want-of-Answer Call. Your case will be postponed for trial on a date certain in a Courtroom designated by the Presiding Judge. If you have not filed your appearance or answer on time, Plaintiff may obtain an ex parte default judgment against you for the amount claimed. If plaintiff is not present for the Default-for-Want-of-Answer Call, the case will be dismissed for want of prosecution.
- * 4. If the claim is for personal injury, or is a civil case in which Plaintiff has filed a jury demand, you will be required to file your appearance in person or by attorney by Return Day and your answer as required by Par. 3(b) above. These cases will be assigned and heard in the Civil Jury Room _____ unless otherwise ordered by the Presiding Judge. Neither Plaintiff nor Plaintiff's attorney will be required to be present on Return Day, or on Default-for-Want-of-Answer Call. The case will be set for STATUS at 9:00 a.m., 91 days after the Return Day. Plaintiff and Defendant will be required to appear in court on that status day.
5. Late filing of an appearance or answer will not relieve you from a judgment or default order except by court order.
- * 6. Trial Rights of Property, Detainers, and Revivals of Judgment, Pro Se, and Forcible Detainer suits are returnable in Room _____ and are disposed of on a Return Day unless otherwise ordered by the court.
- * Pertaining to third district only.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Complaint-Verified (This form replaces CCMD-3A)

CCM N008-30M-2/28/05 (43480639)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

MR. DAVID POWELL

Plaintiff(s)

GREENTREE
800 LAND MARK TOWERS
345 ST. PETER ST.
ST PAUL MN 55102

Defendant(s)

No. 07 MB 5396

Contract _____

Amount Claimed \$ 50,000 + C.C.

Return Date _____

COMPLAINT

The Plaintiff(s) claim(s) as follows:

I Mr. David Powell Plaintiff Pro-Se Motions the Court under the Civil Rules of Procedure for the Defendant's Breach of Contract for loan extension on account No. 147716724 as promised. The Defendant's Negligent Misrepresentation on an express contract agreement 110.21 contracts has caused the Plaintiff undo hardship. The Defendant has shown the propensity in the past to honor said loan extensions after the Plaintiff's date of disability in which the Defendant has denied the Plaintiff's request for insurance on said account, listed in the exhibits before the Court. In support of my Motion of Complaint the term willful as used in the Fair Credit Reporting Act by knowingly and intentionally committing an act in conscious disregard for the rights of others. *Wiggins vs. Equifax D.D.C. 1993, 848 F.Supp.213*. The Plaintiff Prays the Court for relief in this matter for the sanction as listed and any other means the Court finds equitable and just.

Respectfully Submitted
Mr. David Powell Plaintiff Pro-Se

I, DAVID POWELL, certify that I am the PLAINTIFF
(Name) (Name of Attorney if applicable)
plaintiff in the above entitled action. The allegations in this complaint are true.

Atty. No.: Pro Se Pro Se 99500Dated: 10-31-07

Atty. (or Pro Se Plaintiff)

Name: DAVID POWELLAddress: P.O. BOX 5282City/State/Zip: LAUSING, ILL 60438Telephone: 708 471 1808

Signature

☒ Under penalties as provided by law pursuant to 735 ILCS 5/1-109 the above signed certifies that the statements set forth herein are true and correct.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

EXHIBIT 1

Conseco
500 Landmark Towers
345 St. Peter St.
St. Paul, Minn
55102-1641

December 15th 2000

Director;

This letter is my request of information on your companys policy concerning disability insurance on boat loans and motorcycle loans.

When the original purchase contract is signed and insurance is taken out, what party is responsible for these payments?, Is it Conseco or does Conseco have its own insurance carrier for these loans?, or is it the retailers responsibility?

I hope your office can clarify these matters for me.

Thank-You
Mr. David Powell

Mr. David Powell

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Received by (Please Print Clearly) <i>[Signature]</i></p> <p>B. Date of Delivery</p>	
<p>1. Article Addressed to:</p> <p>CONSECO 500 LANDMARK TOWERS 345 ST. PETER STREET ST. PAUL, MINN 55102-1641</p>		<p>C. Signature <i>[Signature]</i></p> <p>X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Copy from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

EXHIBIT 2

Mr. David Schwartz
Greentree Servicing
345 St. Peter Street
St. Paul, Minn 55102

April 25th 2007

Mr. Schwartz;

I was instructed to write concerning an extension request on my boat loan. the representative's name is Angela, no last name was given this writer. I believe she can be located in the loan division, I find this unusual as I in the past normally would receive a two month extension simply by requesting it. There was mention of past litigation, hence her instructions to write you.

I did explain to Angela, that in the past no matter the level of litigation, I was granted the extension. As of this date the loan payment is 25 days late, in previous requests I was told the loan had to be 30 days late, upon which the documents for the two month extension would be sent by facsimile. I am now wondering if I will be given the same opportunity for said extension, and if not a reason for any denial of my request herein. My account No. is 147716724, please inform this writer as to the status of my request.

Thank-You
Mr. David Powell
P.O. Box 5282
Lansing, ILL 60438

SENT V.I.A. U.S. Reg Mail
Receipt No. 7006 0100 0007 0066 8877

7006 0100 0007 0066 8877

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only) No return address required	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 10.39
Certified Fee	\$2.40
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 12.79
PS Form 3800, June 2007 PSN 7530-01-000-9001	

Sent To	GREENTREE SERVICING
Street, Apt. No., or PO Box No.	345 ST. PETER ST LAND MARK TOWERS
City, State, ZIP+4	ST. PAUL, MINN 55102

EXHIBIT 3

TELEPHONE VOICE MAIL TRANSCRIPTION PLAINTIFF'S PHONE
BY CONSECO -GREENTREE EMPLOYEE ANGELICA EXT 34211

HELLO THIS CALL IS FOR DAVID POWELL THIS IS ANGELICA WITH
GREENTREE IT IS VERY IMPORTANT THAT YOU RETURN MY CALL
THIS IS REGARDING AH THE PICKUP OF THE BAYLINER BOAT AND
TRAILER I NEED YOU TO CONTACT ME REGARDING THIS APPOINTMENT
MY NUMBER IS 888 800 9756 AND MY EXTENSION IS 34211 IT IS VERY
IMPORTANT THAT YOU RETURN MY CALL THANKYOU.

MESSAGE RECIEVED ON THE 29TH OF OCTOBER PLAINTIFF'S VOICEMAIL
TO REPOSESS.

EXHIBIT 4

TELEPHONE VOICE MAIL TRANSCRIPTION PLAINTIFF'S PHONE
BY CONSECO-GREENTREE EMPLOYEE BETES EXT 33877

THIS MESSAGE IS FOR DAVID POWELL THIS MR BETES WITH
GREENTREE I NEED FOR YOU TO RETURN MY CALL TODAY
AS SOON AS POSSIBLE TODAY IS TUESDAY OCTOBER 30TH
THE NUMBER IS 888 800 9756 EXT 33877 THANKYOU

MESSAGE RECIEVED ON THE 30TH OF OCTOBER PLAINTIFF'S VOICEMAIL
REQUESTING THE SAME INFORMATION FOR LOAN EXTENSION

National City

National City Bank
Munster Office
9175 Calumet Avenue
Munster, IN 46321
(219) 836-2403

EXHIBITS

October 30, 2007

Re: Check by phone completed by David Powell

To: Greentree (Conseco)

To Whom It May Concern,

This letter is to acknowledge that , I, Tony Santana, verified Mr. Powell's bank account #, and National City Banks routing # for the purpose of paying a check by phone.

I spoke with a representative from Greentree to confirm Mr. Powell's check by phone information.

If you have any questions I can be reached at 219-836-2403 or by email at louis.santana@nationalcity.com.

Sincerely,

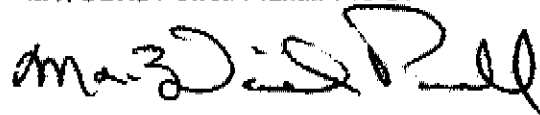


Tony Santana
Vice President
Manager
Munster Banking Center

AFFIDAVIT OF MR. DAVID POWELL

I Mr. David Powell being over the age of eighteen and duly sworn do hereby submit this affidavit and if called to testify on its contents would freely do so. On the 29th of October 2007 I recieved a voicemail message as listed in exhibit 3, I returned the call and asked the question is it your intent to start repossession? I was instructed to call Mr. Betes, I informed Angelica I had a dental appointment. On the October 30th 2007 I called Mr. Betes and informed I was under Doctors care. mr. Betes went into his request for the same information previously given to him, Mr. Betes the informed me that a sum of money was to be sent in the amount of 105.47, I asked Mr. Betes about his guarantee of this loan extension and reminded him the conversation was witnessed, Mr. Betes ignored this. Mr. Betes called again and told me he had made a mistake, I was now told by Mr. Betes I was to remit a sum of 97.56. I again reminded Mr. Betes of his quarantee of the 25th, Mr. Betes again ignored his promise of a loan extension.

Affiant Further Saith Not
M r. David Powell Plaintiff Pro-Se

A handwritten signature in black ink, appearing to read "Mr. David Powell", written over the printed name.

AFFIDAVIT OF MR. CARL HASLER

I Mr. Carl Hasler, being over the age of eighteen and duly sworn do hereby submit this affidavit and if called testify on its contents would freely do so. On the twentyfourth of October 2007, I was a witness to conversation between Mr. David Powell and an employee of a finance company known as Betes. In this conversation Mr. Powell informed employee Betes no fewer than three times that I Mr. Carl Hasler would witness this conversation, Betes was clearly aware of this and commented to Mr. Powell (Betes Quote: Don't put me on the spot) Mr. Powell asked if there were any attempts to repossess his boat and trailer, and asked Betes the date of his request for a loan extension. (Betes Answer quote) your loan extension is approved for the twentyfifth of October 07. Mr. Powell then asked again about repossession (Betes Quote there will be no repo activity.)

Affiant Further Sath Not

Mr. Carl Hasler

Carl Hasler

Motion - General Form (This form replaces CCMD-37)

CCG N702-150M-1/21/04 (3333073)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

MR. DAVID POWELL

Plaintiff(s)

GREENTREE
800 LANDMARK TOWERS
345 ST. PETER STREET
ST. PAUL, MN 55102

Defendant(s)

No.

07 M6 5396TO: GREENTREEMOTION BY PLAINTIFF FOR SERVICE OF SUMMONSPURSUANT TO 735 ILCS SERVICE OF
SUMMONS BY MAILING AS THE DEFENDANTS
ADDRESS IS OUT OF THE GEOGRAPHICAL
BOUNDARIES OF THE COUNTY OF COOK
STATE OF ILLINOISI (We) do hereby certify that a copy of this instrument was served upon all parties who have appeared
and have not previously been found by the Court to be in default for failure to plead.Dated: 10-31-07Atty. No.: 100-50Name: David PowellAtty. for: GreentreeAddress: 800 Landmark TowersCity/State/Zip: St. Paul, MN 55102Telephone: 763-114-1508Attorney Certification
FID-15DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
07 OCT 31 PM 4:30

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

MR. DAVID POWELL

No. 07 M65396

GREENTREE
200 LANDMARK TOWERS
412 ST. PETER ST.
ST. PAUL MINN 55102

ORDER

IN THE MATTER OF Powell vs. GREENTREE
IT IS HEREBY ORDERED

- ① THE DEFENDANT WILL CEASE ALL EFFORTS TO REPOSSESS THE PLAINTIFFS BOAT/TRAILER UNTIL THE STATUS DATE IN WHICH BOTH PARTIES ARE PRESENT
- ② THE DEFENDANT WILL CEASE ALL PHONE CALLS AND VOICEMAILS TO THE PLAINTIFF

Atty. No. : 100-38

Name : DAVID POWELL

Atty. for : 100-38

Address : PO BOX 5232

City/State/Zip : MINN. 55102

Telephone : 103 474-1848

ENTER :

Judge

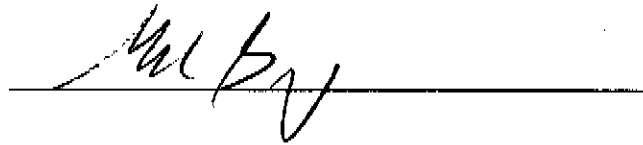
Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for defendant, certifies that on November 16, 2007, he caused a copy of the foregoing Notice of Removal to be mailed, first-class postage prepaid, to:

David Powell
P.O. Box 5282
Lansing, IL 60438

A handwritten signature in dark ink, appearing to read "David Powell", is written over a horizontal line.